

MEETING OF THE BOARD OF BANK ADVISORS

February 28, 2011

9:00 am

Department of Financial Institutions
324 South State Street, Suite 201
Salt Lake City Utah

Minutes

BOARD MEMBERS PRESENT:

Craig White, Cindy Johnson, Leonel Castillo, Dave Brown, and Doug Bringhurst.

DEPARTMENT OF FINANCIAL INSTITUTIONS STAFF PRESENT:

Commissioner Ed Leary, Paul Allred, Tom Bay, Shaun Berrett, Darryle Rude, Dean Merrill, Paul Cline, Kevin Daly, Ann Gregson, and Sonja Long.

OTHERS PRESENT:

Roger Shumway, Bank of Utah; and Kendall Phillips, Liberty Bank.

1. Call Meeting to Order – Chairman Craig White

Introductions were made around the room.

2. Minutes

Cindy Johnson made a motion to accept the minutes, Dave Brown seconded the motion.

3. Election of chairman and vice-chairman

Doug Bringhurst nominated Leonel Castillo as chairman, Cindy Johnson seconded the nomination. Cindy nominated Dave Brown as vice-chairman, Craig White seconded the nomination.

4. Legislative Session – Paul Allred

Paul went through the bills that the department is currently watching. Before this session started he figured this might be a quiet session for the department, however, it has been very busy for the department now that it is underway.

Right now, there are four or five bills dealing with foreclosures. There are legislators who feel we are in the middle of a crisis, and we are. They feel that we need to do something

with our law to change that so we have a number of bills on that. Some of them have advanced and others haven't gotten out of committee yet.

We are monitoring HB280 – State agency realignment; this is Representative Harper's bill. Before the session began he proposed taking DFI and merge it with Department of Insurance, Real Estate Division, and Securities Division. We have met with Representative Harper to discuss our opposition to this. Right now, he is proposing a council to study this.

Commissioner Leary suggested discussing SB218, Senator Bramble's bill. It will change the concept of guarantees on construction loans secured by real estate. Senator Bramble is proposing when you have a commercial loan with a payment guarantee on it, he will not require you to foreclose on the real property before you can go after the guarantors. This is not currently the law. This bill is directed at credit unions, he has written it so that this would only change the relationship if it is a credit union making the loan. Our concern is that if you have situations where developers are putting together commercial developments and they find out that under law that their guarantors will be protected until after the foreclosure, they will start wondering why banks don't offer that same protection. Having payment guarantees is a very important credit enhancement for making these types of loans. Commissioner Leary has had discussions with Senator Bramble about this.

SB116, Senator Urquart's bill on homestead exemptions. His bill originally wanted to increase the amount for homestead exemptions under bankruptcy by doubling them. Part of the problem in increasing those amounts is that they haven't been changed in over three decades.

HB260 and HB115 Mechanics liens bills. There has been a lot of talk about who should get a super priority on those liens. Representatives Morely & Clark have been working with UBA on this.

5. Troubled Debt Restructuring overview – Dean Merrill

Dean had a handout (#1) on troubled debt restructuring. He explained that we haven't dealt with this a lot recently. He went through the handout to give everyone a "top down" look at TDR's.

6. Community Bank Performance Trends – Tom Bay

Tom gave out his handout. It is the previous quarter's trends. There was a request of someone who couldn't be here that wanted it emailed to them. Sonja will email to all banks after the meeting. Tom went through the handout.

7. Commissioners Comments:

- Two or three weeks ago the UBA compliance committee met and Commissioner Leary spoke to them. During that time it became apparent that there was extreme interest in the Durbin amendment, the interchange fee and how it would adversely affect community banks. Howard Headlee asked Commissioner Leary if CSBS had taken a position, it was being developed at that time. Commissioner Leary gave out a copy of the letter that CSBS sent to the Federal Reserve stating their position on the amendment.
- CSBS was one of the groups invited to sit on the Financial Services Oversight Committee (FSOC). There are a number of state related groups that have a seat, but not a voting seat on that committee. CSBS decided that they wanted to participate, but that they wanted a broader viewpoint than just one person sitting there. The designee for CSBS on that committee is the current California Commissioner, Bill Haraf. He asked that there be a group put together to advise him on CSBS positions with respect to the Financial Services Oversight Committee, Commissioner Leary was asked to be part of that group.
- We are working with Treasury for the first time on the Small Business Loan Fund. Tom has received a few applications for that and Darryle has received a couple as well. The Treasury has now completed the logistics of state input to Treasury on this.
- In the mortgage area the MLO registrations for all bank related officers needs to be completed by July 29, 2011.
- CFPB, going forward they will inherit the federal jurisdiction responsibility for 18 federal laws. That will go into effect on July 21, 2011. For community banks, the FDIC or the FRB which has been doing your compliance exams, they will continue doing them, but the final decider writer of the rules will be the CFPB. For those institutions that are \$10 billion or more, the examination of them will fall with CFPB. Because Utah has a few institutions that are \$10 billion or larger, we have had dialogue between CSBS and us and as of last week the CFPB senior staff. Commissioner Leary said that from his prospective at least they are starting out talking to us. Only a few states do compliance examinations, he figures that going forward, there will be more and more pressure for states to step up and start getting some examiners with compliance examination skills.

7. Date of next meeting – May 23, 2011 – 9:00 am

8. Adjourn